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GROUP 3600

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/518,837
Filing Date: March 03, 2000
Appellant(s): TUTTLE, FRANK D.

Douglas D. Russel
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 12/21/2004.

EA

(1)   ***Real Party in Interest***

A statement identifying the real party in interest is contained in the Brief.

(2)   ***Related Appeals and Interferences***

The Brief contains a statement that there are no other Appeals and Interferences

that relate to the application.

(3)   ***Status of Claims***

The statement of the status of the claims contained in the brief is correct.

(4)   ***Status of Amendments After Final***

No amendment after final has been filed.

(5)   ***Summary of Invention***

The summary of invention contained in the brief is correct.

(6)   ***Issues***

The appellant's statement of the issues in the brief is correct.

(7)   ***Grouping of Claims***

Appellant's brief includes a statement that claims 1-42 do not stand or fall

together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8)   ***Claims Appealed***

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9)   ***Prior Art of Record***

6,643,625   ACOSTA ET AL.   11-2003

(10)   Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-20, 22-33, 39 and 41-42 are rejected under 35 U.S.C. 102(e) as being

anticipated by Acosta et al. (US Pat No. 6,643,625).

Acosta et al disclose all the features of claim 1, particularly a method and system for

auditing loan compliance with government loan lending and licensing requirements comprising:

a.   allowing a user to display and enter loan audit compliance data, comprising the steps of:

receiving and displaying loan audit data on a user interface of a computer

system; and ii. storing the loan audit data in a loan data database in the computer system (see

column 2, lines 13-17);

b.   allowing a user to interactively build loan compliance rules, comprising the steps of

enabling the user to interactively build loan compliance rules on a user

interface of the computer system (column 2, line lines 13-,27) and

ii. storing the loan compliance rules in a loan compliance rules database in the

computer system (column 2, lines 13-27 and column 5, lines 30-37) and

c.   responding to a loan audit request received from a user on a user interface of the

computer comprising the steps of:

retrieving the loan compliance rules from the loan compliance rules database;

ii.   retrieving the loan audit data from the loan data database;

iii.   comparing the loan compliance rules to the loan audit data to determine a loan audit

compliance result (column 2, lines 23-43; column 5, lines 52-59 and column 4, line 67 to column

8, line 7); and

iv.   notifying the loan audit request user of the determined loan audit compliance

result (column 2, lines 48-56 and column 8, lines 51-67).

Claims 2, 23, 24 and 25 contain limitations recited in claim 1 and these limitations are

rejected under a similar rationale. Claims 2, 23, 24 and 25 further recites using applicable

licenses for a geographic boundary, building loan compliance rules for all applicable licenses

available within the geographic boundary and associating licenses from the applicable licenses

with a loan originator to a form a set of loan originator applicable licenses.

As per these limitations, Acosta et al disclose auditing all types of desired loans and in

any desired states (see column 4, lines 7-20) and that rules are customized as desired. See also

column 4, lines 50-66).

As per claim 3, Acosta et al teach building rules for all applicable licenses available

within the geographic boundary using compliance based rule variables and rule building

instructions and storing the loan compliance rules in a rule library database in the computer

system. Note column 4, lines 11-66.

As per claim 4, Acosta et al disclose allowing the user to add new license to the

applicable licenses available and allowing a user to build new rules for the new license. Note

column 4, lines 11-66 and column 9, lines 50-67.

As per claim 5, Acosta et al disclose storing the loan compliance in a rule library

database in the computer system. Note figure 1 and column 5, lines 8-50.

As per claim 6, Acosta et al disclose if a rule exists in the rule database, for a license,

allowing the user to review the rule. Note column 5, lines 8-50.

As per claim 7, Acosta et al disclose if a rule exists in the rule database, for a license,

allowing the user to change the rule. See column 5, lines 30-50.

As per claim 8, Acosta et al disclose allowing the user to modify the loan compliance

rules in the rule library database. See column 5, lines 30-50, and column 4, lines 50-60.

As per claim 9, Acosta et al disclose the compliance base rule variables represent data

elements in a loan file database. See column 3, lines 37-50.

As per claim 10, Acosta et al disclose checking for payments, billing data, errors and

other related mathematical calculations. Note column 5, line 65 to column 6, line 67.

As per claim 11, Acosta et al. disclose rule-building instructions for allowing the user to

build rules by specifying equations using base rule variables. Note column 5, line 65 to column

8, line 50.

As per claim 12, Acosta et al. disclose associating the loan compliance rules with a

license to form a set of assigned compliance rules. Note column 4, lines 11-60.

As per claim 13, Acosta et al. disclose the geographic boundary is a state. See column 4, lines 11-20.

As per claim 14, Acosta disclose the user displays and enters loan data using a user interface embodied in a computer processor that communicates with the rule library database via a communications network. See column 9, lines 37-60.

As per claim 15, Acosta disclose the communications network is a global communications network. See column 9, lines 37-60.

As per claim 16, Acosta et al. disclose allowing a user to identify and store applicable exemptions to the government license requirements in the assigned compliance rules. See column 8, lines 50-60 and column 4, lines 11-20.

As per claims 17-20, Acosta et al disclose the government loan originator requirements are federal/state/licensing loan requirements. Note column 3, line 55 to column 4, line 50.

As per claim 26, in the system of Acosta et al, results are displayed to the user via a user interface.

As per claims 27-29 see column 9, lines 37-45.

As per claim 30, see column 8, line 50 to column 9, line 5.

As per claim 31, the loan compliance rules are built by the user using the user interface.

As per claim 32, see column 3, line 55 to column 5, line 50.

As per claim 33, see column 3, line 55 to column 5, line 50.

As per claim 40, the system of Acosta et al includes a printer for generating a hard copy of the loan audit results.

As per claim 41, Acosta et al disclose the loan compliance rules comprise instructions,

assigned compliance rules, government rules and data application rules. Note columns 4-6 of

Acosta et al.

As per claim 42, Acosta et al teaches accessing the system via the Internet thus,

inherently teach a web browser for transmitting and receiving loan data and loan audit results.

See column 8, lines 37-45.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

Claims 21, 34-38 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Acosta et al. (US Patent No. 6,643,625).

As per claims 21 and 34-38, Acosta et al disclose a global communications network but

do not specifically state the communications network is selected from the group consisting of a

satellite communication network, a telephone communication network, a microwave

transmission network and a wireless telephone communication network. As per these types of

communication systems, the Examiner asserts that these are well known and used

communication systems at the time of the invention. Incorporating these types of

communication systems in the system of Acosta et al would have been obvious to one of

ordinary skill in the art at the time of the invention in order to provide a user with desired

alternate means of accessing the system.

As per claim 40, Acosta et al. does not explicitly disclose storing the loan audit results on

media selected from the group consisting of a hardcopy report, a tape, a film and a CD-ROM.

These types of media are well known and used in the art. It would have been obvious to one of

ordinary skill in the art at the time of the invention to incorporate these types of media in the

system of Acosta et al in order to provide users with alternate means of storing loan audit results.

(11)   *Response to Argument*

Appellant argues that Acosta does not automatically determine compliance with State and

Federal requirements using computer-encoded, math-like compliance rules to represent State and

Federal requirements restriction as claimed.

In response, the Examiner notes that a limitation of automatically determining "compliance with

State and Federal requirements using a computer-encoded, math-like compliance rules to represent

State and Federal requirements restriction" is nowhere found in the claims. Such a function is not being

claimed. Although the claims are interpreted in light of the specification, limitations from the specification

are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Appellant then argues that the Examiner has improperly rejected the claims under 35 USC 102

because the Examiner has not provide a (1) single prior art reference (2) that teaches or enables (3) each

of the claimed elements, arranged as in the claim, (4) expressly or inherently or inherently, (5) as

interpreted by one of ordinary skill in the art.

In response, the Examiner disagrees with the appellant's assertion. The Examiner has properly

applied the Acosta reference in presenting the 35 USC 102 rejection. In the prior Office action, the

Examiner had clearly shown that each and every feature of the claimed invention was either taught or

inherently present in Acosta as noticed in the prior Office action and as would be shown below.

As per claim 1, appellant argues that there is no disclosure in Acosta of "allowing a user to

display and enter loan audit compliance data, comprising the steps of receiving and displaying loan audit

data on a user interface of a computer system and storing the loan audit data in a loan data database in

the computer system".

In response, Acosta states on column 3, lines 45-49, "the system of the invention includes storing

current legal regulations 13 on historical legal regulations 14 on the computer system, preferably on the

server, as well investor specific parameters 15 which are also stored on the server". Acosta further states

that the loan audit data is checked to be in compliance with legal regulations. The loan audit data is the

various types of loans present in the computer system which also relate to investors and investor

parameters. See column 2, lines 13-17. The claimed loan compliance data relates to the legal

regulations as taught by Acosta. See column 3, lines 45-49 of Acosta. The loan audit compliance data

are retrieved from memory for allowing a user to interactively build loan compliance rules since there

includes a plurality of types of loans and a plurality of types of investors wherein each type of loan has

different State and Federal regulations. See column 4, lines 7-50. Acosta is replete with teachings of

allowing a user to interactively build loan compliance rules by enabling the user to interactively build loan

compliance rules on a user interface of the computer system (column 2, lines 13-27) and storing the loan

compliance rules in a loan compliance rules database in the computer system (column 2, lines 13-27 and

column 5, lines 30-37).

Appellant refers the Examiner to page 10, lines 9-15 of the Appellant's specification to make

reference that their rule building is based on a math-like equations operands to represent a State and

Federal requirement or restriction and the Appellant argues that such a teaching is not present in Acosta.

In response, the Appellant is reminded that the MPEP allows the Examiner to interpret the claims

as broad as possible in light of the specification. The cited passage(s) provided by the Examiner is in

accordance with the MPEP. Furthermore, the noted arguments presented by the appellant are not

convincing as the argued features are not found in the claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

As per the third element of claim 1, Appellant argues that Acosta does not teach or suggest "responding to a loan audit request received from a user on a user interface of the computer system" by using a set of retrieving, comparing and notifying steps.

In response, Acosta et al state that a loan auditor responsive to a manager's request may request to audit a loan. In so doing, a set of related questions similar to the claimed compliance rules will be retrieved from memory. The loan data similar to the claimed loan audit data must also be retrieved because it is a specific loan which is the subject or being audited. (See column 2, lines 23-43; column 5, lines 52-59 and column 4, line 67 to column 8, line 7 of Acosta). Steps of automatically notifying the loan audit request user of the determined loan audit compliance result are taught on column 2, lines 48-56 and column 8, lines 51-67 of Acosta.

As per the citations provided by the Examiner, Appellant argues that column 4, line 67 to column 8, line 7 relates to steps for determining an Exception rate and tables of typical checklist questions and auditor recommendations and the citations do not teach the claimed invention.

In response, these citations do teach both a set of questions retrieved from memory for a loan auditor to apply to a specific loan to be audited and the types of questions, answers and recommendations will indeed be used so as to determine an exception or error rate in the auditing process. (See column 5, lines 7-29). The fact that Acosta teaches more than what applicant's invention envisioned is not a persuasive argument that Acosta is not in line with the Appellant's invention or that Acosta fails to teach or suggest the Appellant's invention. Acosta teaches that in response to a loan audit request by a loan auditor from a manager, a set of questions based on the type of loan to be audited is automatically retrieved from memory by the computer system (column 5, lines 30-64). The type of loan to

be audited is also retrieved whereby the set of questions is applied to the type of loan thus performing a

comparison function. See also column 5, lines 7-15 of Acosta.

Appellant then argues that there is no disclosure in the Acosta reference for notifying the loan

audit request user of the determined loan audit compliance result". In response, the appellant is also

referred to columns 7 and 8 of Acosta.

As per claim 2, claim 2 recites features found in claim 1 and the Examiner's responses to

appellant's arguments related to these features are also applied as related to claim 1. Appellant further

argues that there is no disclosure of building loan compliance rules anywhere in the Acosta disclosure as

related to applicable licenses for a geographic boundary.

In response, Acosta et al. teach that auditors and loans data are originated from a plurality of

states whereby each state may have their own regulations or requirements. (column 4, lines 7-20).

Customizing of compliance rules is also done see column 4, lines 50-66. Loan auditors, loan originators,

loan managers must have applicable and current licenses to practice in a given state or within a

geographic location. These are inherent teachings in the system of Acosta. Applying these types of loan

information to a loan auditing process ensures that all State and Federal regulations are met.

As per arguments related to claims 22-26, the appellant is referred to the above noted arguments

related to claim 2. It should also be noted that in the system of Acosta, a user may access loan data or

compliance rule from a sever at a remote site. See column 9, lines 36-44 and column 4, line 61 to

column 5, line 29 of Acosta. Acosta teaches a server having compliance rules, communication means

and user interfaces. See figure 2 and column 9, lines 37-60 of Acosta.

As per claims 3 and 5-9, Appellant argues that features recited on page 10, lines 3-22 of the

Appellant's specification is different from that which the Examiner equates with the teachings of Acosta.

In response, the Examiner is entitled to give a broadest interpretation of the claimed invention. In this instance, Acosta et al teach that auditors and loans data are originated from a plurality of states whereby each state may have their own regulations or requirements. (column 4, lines 7-20, figure 1 and column 5, lines 8-50). Customizing of compliance rules is also done see column 4, lines 50-66. Loan auditors, loan originators, loan managers must have applicable and current licenses to practice in a given state or within a geographic location. These are inherent teachings in the system of Acosta. Applying these types of loan information to a loan auditing process ensures that all State and Federal regulations are met.

As per claim 4, Appellant argues that there is no disclosure in Acosta of using a compliance rule variables and rule building instructions. In response, Acosta et al teach that auditors and loans data are originated from a plurality of states whereby each state may have their own regulations or requirements. (column 4, lines 7-20). Customizing of compliance rules is also done see column 4, lines 50-66. Acosta et al disclose allowing the user to edit rules and to add new rules. Note column 4, lines 1 1-66 and column 9, lines 50-67. Loan auditors, loan originators, loan managers must have applicable and current licenses to practice in a given state or within a geographic location. These are inherent teachings in the system of Acosta. Applying these types of loan information to a loan auditing process ensures that all State and Federal regulations are met.

As per claim 10, Appellant argues that Acosta et al fail to teach or suggest the limitation of a "rule building instructions comprise allowing the user to build rules by specifying equations using rule base rule variables".

In response, in a loan process related to real estate properties, the type of a loan, the loan amounts, the interest rates, the type of investors and eligibility requirements are based on a range of amount or quantity which must involve some mathematical expressions. For example, criteria for an investor and for a residential occupant may vary based on loan amount and interest rates. Thus,

structuring rules based on mathematical equations or expressions is inherent in the system of Acosta et al. so as to ensure a type of loan meets State and Federal regulations.

As per claim 11, Appellant argues that Acosta et al fail to teach or suggest "the rule building instructions comprise controlling the rule building process to eliminate rule errors".

In response, the appellant is directed also to column 8, lines 50-67 of Acosta et al.

As per claim 12, Appellant argues that Acosta et al fail to teach or suggest the limitations of "associating the loan compliance rules with a license to form a set of assigned compliance rules".

In response, Acosta et al teach that auditors and loans data are originated from a plurality of states whereby each state may have their own regulations or requirements. (column 4, lines 7-20). Customizing of compliance rules is also done. See column 4, lines 50-66. Acosta et al disclose allowing the user to edit rules and to add new rules. Note column 4, lines 1 1-66 and column 9, lines 50-67. Loan auditors, loan originators, loan managers must have applicable and current licenses to practice in a given state or within a geographic location. These are inherent teachings in the system of Acosta. Applying these types of loan information to a loan auditing process ensures that all State and Federal regulations are met.

As per claim 16, Appellant argues that Acosta et al fail to teach or suggest the limitation of "allowing a user to identify and store applicable exemptions to the government license requirements in the assigned compliance rules".

In response, users in the system of Acosta et al are allowed to edit compliance rules. Mortgage brokers and loan originators licensees are exempt from certain requirements under the Mortgage Broker Practice act. Acosta et al concern with a complete auditing process for compliance with State and Federal regulations. Thus, limitations of allowing a user to identify and store applicable exemptions to the government license requirements in the assigned compliance rules are inherently present in Acosta et al.

As per claims 17-20, compliance rules in Acosta et al relate to State and Federal regulations.

Claims 27-30 remain rejected as stated in the prior Office action.

As per claim 31, Appellant argues that Acosta et al fail to teach or suggest the limitation of "the loan compliance rules are built by the user using the user interface".

In response, Acosta et al teach that a user may edit rules and checkpoints and questions during a loan audit process using a computer system. See column 5, lines 30-51 of Acosta et al.

As per claim 32, Appellant argues that Acosta et al. fail to teach or suggest the limitation of "interactively building a set of loan compliance rules comprises using applicable licenses for the state, the user builds rules for all licenses available within the state using the compliance base rule variable and rule building instructions and stores the rules in a rule library, and using the applicable licenses, the user associates the applicable licenses with a loan originator to form the loan origination applicable licenses".

In response, Acosta et al teach that a user may edit rules and checkpoints and questions during a loan audit process using a computer system. See column 5, lines 30-51 of Acosta et al. Users in the system of Acosta et al are allowed to edit compliance rules. Mortgage brokers and loan originators licensees are exempt from certain requirements under the Mortgage Broker Practice act. Different brokers or loan originators may have different licenses. Acosta et al concern with a complete auditing process for compliance with State and Federal regulations. Thus, these limitations are inherent in the system of Acosta et al in order to assure that compliance with State and Federal regulations are fully met.

As per claim 33, Appellant argues that Acosta et al fail to teach or suggest the limitation of "in comparing the loan compliance rules with the loan data, the loan audit server identifies a loan types and loan originator, retrieves the applicable licenses for the loan type and the loan originator, retrieves the loan compliance rules associated with the applicable licenses from the stored rules in the rule library, compares the loan compliance rules to the loan data and compiles the loan audit results".

In response, Acosta et al state that a loan auditor responsive to a manager's request may request to audit a loan. In so doing, a set of related questions similar to the claimed compliance rules will be

retrieved from memory. The loan data similar to the claimed loan audit data must also be retrieved because it is a specific loan which is the subject or being audited. (See column 2, lines 23-43; column 5, lines 52-59 and column 4, line 67 to column 8, line 7 of Acosta). Steps of automatically notifying the loan audit request user of the determined loan audit compliance result are taught on column 2, lines 48-56 and column 8, lines 51-67 of Acosta.

As per claims 39 and 40, storing the loan audit result in hard copy, tape, film or CD-Rom format is inherent in the system of Acosta et al.

As per claim 41, Appellant argues that Acosta et al fail to teach or suggest "compliance rules comprise based rule variables, rule building instructions, a compliance rules data library, assigned compliance rules, a list of government licenses for loan originators, and data application rules".

In response, Acosta et al teach that auditors and loans data are originated from a plurality of states whereby each state may have their own regulations or requirements. (column 4, lines 7-20). Customizing of compliance rules is also done. See column 4, lines 50-66. Acosta et al disclose allowing the user to edit rules and to add new rules. Note column 4, lines 1 1-66 and column 9, lines 50-67. Loan auditors, loan originators, loan managers must have applicable and current licenses to practice in a given state or within a geographic location. These are inherent teachings in the system of Acosta. Applying these types of loan information to a loan auditing process ensures that all State and Federal regulations are met.

As per claim 42, Acosta d al teaches accessing the system via the Internet thus, inherently teach a web browser for transmitting and receiving loan data and loan audit results. See column 8, lines 37-45.

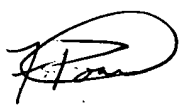As per claims 21, 34-38 and 40, Appellant is directed to the prior Office action.

The Examiner acknowledges the Appellant's statement regarding commercial success of the

claimed invention. However, it should be noted that in the showing of obviousness, the prior art

must firstly be considered. The Appellant's statement is regarded as secondary considerations

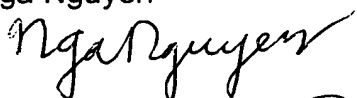and is not sufficient to overcome the outstanding rejection.

For the above reasons, it is believed that the rejections should be sustained.
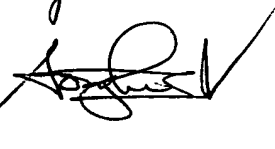
Respectfully submitted,

FP

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